

REMARKS

Claims 1-29 are pending in the subject application and are subject to a restriction requirement.

Requirement for restriction under 35 U.S.C. 121

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 to one of the following allegedly independent and distinct inventions:

Groups I and II. Claims 1-7, 13-15, 19-21, and 27, insofar as the claims are a method for aiding in the diagnosis of a condition, wherein said method comprises determining the amount of expression of a MART-1 protein by detecting the amount of mRNA transcribing said protein using a probe or primer that is complementary to a sequence encoding a peptide selected from the group consisting of SEQ ID NO: 2 and SEQ ID NO: 25, and a diagnostic kit comprising said primer, classified 435, subclass 6 and class 536, subclass 24.3.

Groups II-XV. Claims 1, 7-10, 14, 17, 18, and 22-26, insofar as the claims are drawn to a method for aiding in the diagnosis of a condition, wherein said method comprises determining the amount of expression of a MART-1 protein by detecting the amount of said protein using an agent that specifically recognizes and binds to said protein, wherein said agent is an antibody or an antigen-binding fragment thereof, which has been prepared from an animal immunized with a peptide selected from the group consisting of SEQ ID NOs: 2, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, and a diagnostic kit comprising said agent, classified in class 435, subclass 7.1 and class 530, subclass 387.3.

Groups XVI-XXVIII. Claims 1, 7-10, 14, 16-18, and 22-26, insofar as the claims are drawn to an *in vivo* method for aiding in the diagnosis of a condition, wherein said method comprises determining the amount of expression of a MART-1 protein by detecting the amount of said protein using an agent that specifically

recognizes and binds to said protein, wherein said agent is an antibody or an antigen-binding fragment thereof, which has been prepared from an animal immunized with a peptide selected from the group consisting of SEQ ID NOs: 2, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, and a diagnostic kit comprising said agent, classified in class 424, subclass 1.49, for example, and class 530, subclass 387.3.

Groups XXIX-XLI. Claims 1, 7, 8, 9, 11, 12, 14, 22-24, and 26, insofar as the claims are drawn to a method for aiding in the diagnosis of a condition, wherein said method comprises determining the amount of expression of a MART-1 protein by detecting the amount of said protein using an agent that specifically recognizes and binds to said protein, wherein said agent is a cell that binds said protein, wherein said cell is an immune effector cell raised in the presence and at the expense of a peptide selected from the group consisting of SEQ ID NOs: 2, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, and a diagnostic kit comprising said agent, classified in class 424, subclass 7.24, for example, and class 435, subclass 372.1, for example.

Group XLII. Claims 28 and 29, drawn to an assay to screen for agents that modulate binding of MART-1 protein to its ligand, classified, for example, in class 435, subclass 7.1.

It appears that the Examiner intended the second group outlined in the Restriction Requirement mailed October 21, 2003 to read "Groups III-XV" rather than "Groups II-XV" as written. Applicant's undersigned agent respectfully requests clarification. Notwithstanding the above, Applicant's undersigned agent hereby elects to prosecute the invention of Groups II-XV (Claims 1, 7-10, 14, 17, 18, and 22-26) as defined by the Examiner. This election is without traverse to the extent that it is understood that (a) the restriction requirement as to the linked inventions will be

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withdrawn upon the allowance of the linking claim(s) 1, 3, 8, and 9-11 and (b) any claim depending from or otherwise

including all the limitations of the allowable linking claims will be entitled to examination in the instant application.

CONCLUSION

No fee is deemed necessary in connection with the filing of this communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1074.

Respectfully submitted,



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Date

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